

EXHIBIT C

Mark Davis
May 14, 2016

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ROBERT WEINTRAUB, et al,

Plaintiffs,

VS.

NO. 1:15-cv-01213AT

ADVANCED CORRECTIONAL
HEALTHCARE, et al,

Defendants.

DEPOSITION
OF
MARK DAVIS
Saturday May 14th, 2016

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1 largest?

2 A. They are. As of now they are the
3 largest. They were the second.

4 Q. Okay. So PTS is paid to safely
5 transport prisoners from one detention center in
6 one state to another detention center in another
7 state?

8 A. Yes.

9 Q. Okay. And they are paid to do that
10 safely?

11 A. Yes.

12 Q. Okay. I'm going to show you what we've
13 marked as Exhibit 1, which is a page from PTS's
14 website. Have you had an occasion to see PTS's
15 website before?

16 A. I have.

17 (WHEREUPON, THE ABOVE-MENTIONED
18 DOCUMENT WAS MARKED AS EXHIBIT 1.)

19 BY MR. PARTIN:

20 Q. Okay. Do you agree with the statements
21 that it makes on its website when it says it
22 provides unparalleled service for prisoner
23 transportation needs?

24 A. I do.

25 Q. And that its core focus is safety?

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1 A. Yes.

2 MR. DALY: Is that on this exhibit?

3 MR. PARTIN: Yes.

4 MR. DALY: Where is it?

5 THE WITNESS: (Indicating.)

6 MR. DALY: Sorry.

7 BY MR. PARTIN:

8 Q. Under "Safety" it says "We go the extra
9 mile to insure staff and detainee safety every
10 step of the way." Do you see that?

11 A. Yes.

12 Q. You are no longer employed by PTS,
13 correct?

14 A. I am not, no.

15 Q. When did you cease being employed by
16 them?

17 A. As far as a date, I can't remember. It
18 was sixteen months after my initial hire date.

19 Q. Okay. When you were hired by PTS, what
20 was your title?

21 A. Senior agent.

22 Q. What does a senior agent do for PTS?

23 A. Everything it entails as far as
24 contacts facilities to arrange the pickup or
25 drop-off of an inmate, housing in the case we

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1 want it from them, you have to give it to them,
2 that kind of thing.

3 Q. Okay. Did you receive a copy of the
4 policies and procedures manuals which we've
5 marked as Exhibit 2?

6 A. I did.

7 (WHEREUPON, THE ABOVE-MENTIONED
8 DOCUMENT WAS MARKED AS EXHIBIT 2.)
9 BY MR. PARTIN:

10 Q. Did you have a chance to review that
11 when you were in training before you were
12 assigned to this transport?

13 A. Yes.

14 Q. Okay. You were familiar with these
15 policies and procedures at the time of this
16 transport?

17 A. I was.

18 Q. So on Page 12 you were familiar with
19 the fact that it says prisoners should be
20 treated fairly, humanely and with dignity?

21 A. Yes.

22 Q. On Page 13 you were familiar with the
23 policy that agents will maintain constant
24 awareness of prisoner contact, behavior,
25 attitude and moods?

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1 A. Yes.

2 Q. Okay. Then on Page 27 you were also
3 aware of the policy that, quote, Under E, in the
4 event that a prisoner develops a medical
5 condition that is life-threatening or sustains a
6 life-threatening injury that constitutes an
7 injury, that the agent may transport the
8 prisoner to an emergency room immediately?

9 A. Correct.

10 Q. Okay. How you were trained on these
11 policies and procedures? Were they just given
12 to you and you were told to read them? Were you
13 tested on them?

14 A. No, none of that. We were just given
15 kind of as ideas, you go over it by yourself.

16 Q. But you knew they existed?

17 A. Yes.

18 Q. And you had been told to be familiar
19 with them?

20 A. Uh-huh.

21 Q. Now, in your role senior agent, you
22 didn't have any duties in terms of providing
23 medical care yourself, did you?

24 A. No.

25 Q. You didn't have any training for

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1 in custody for ten days.

2 Q. Okay. Do you know when he was picked
3 up initially from Colorado?

4 A. No.

5 Q. Were you aware when you picked him up
6 that he had Graves Disease and a thyroid
7 condition?

8 A. I did not.

9 Q. Were you aware that it is reflected in
10 his paperwork and medical records?

11 A. No, I did not. I mean, I did go
12 through his paperwork.

13 Q. Okay. In your training were you also
14 trained on how to deal with prisoners with
15 special needs and medical conditions?

16 A. Yes.

17 Q. Okay. In fact, the policy at Page 26
18 says that PTS shall provide the best possible
19 special care that corresponds to the particular
20 problem with the physical and mental impairment
21 of the prisoner?

22 A. Uh-huh.

23 Q. Do you agree with that?

24 A. I do.

25 Q. Do you recall being interviewed by the

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1 the nurse, right?

2 A. Up, right.

3 Q. You didn't see a team of people to
4 evaluate him?

5 A. No, I did not there. They may have
6 been in the medical room, but it was unbeknownst
7 to me.

8 Q. Now, did somebody tell you specifically
9 that he was medically cleared for transport?

10 A. No. She told Arnold, and I overheard.

11 Q. You overheard?

12 A. Uh-huh.

13 Q. So you were standing there physically
14 present with your own ears and you heard her say
15 to Mr. Arnold what?

16 A. That he was medically cleared to
17 travel, that he was faking it.

18 Q. Okay. He was faking what?

19 A. His moans and groans and whatever he
20 had going on.

21 Q. Did you tell the GBI that he was
22 sweating profusely?

23 A. I did. He was sweating bullets.

24 Q. Sweating bullets. Was he also cold,
25 clammy and pale?

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1 A. He was pale then.

2 Q. Can you fake sweating bullets?

3 A. No, you can't.

4 Q. Can you faking cold, clammy and pale?

5 A. No.

6 Q. Did you believe that he was faking it?

7 A. I don't know. I mean, you see sick
8 people all the time. You yourself could get
9 sick. It is just symptoms. You never know what
10 they could be. So I don't know.

11 Q. My question was did you believe that he
12 was faking being sick?

13 A. I believed it, yeah.

14 Q. You believed he was faking by
15 intentionally sweating and intentionally making
16 himself pale?

17 A. I don't know how you can intentionally
18 sweat, but I believe he was, yeah.

19 Q. So it is your testimony to this jury
20 that you believe he was faking being sick by
21 somehow making himself sweat bullets?

22 A. Yeah.

23 Q. And somehow making himself appear pale
24 and cold and clammy?

25 A. Yeah.

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1 Q. He is one heck of an actor, isn't he?

2 A. I guess.

3 MR. DALY: Object insofar as he didn't
4 testify that he was cold and clammy.

5 MR. SPAINHOUR: I join in the
6 objection.

7 BY MR. PARTIN:

8 Q. I think Mr. Russ testified that he was
9 colds, clammy and pale. Would you disagree with
10 that?

11 A. Who is Mr. Russ?

12 Q. A medical technician that was at the
13 detention center.

14 A. Well, that wasn't told to me, so --

15 Q. But you yourself told the GBI he was
16 sweating profusely, and you just said he was
17 sweating bullets, right?

18 A. Uh-huh.

19 Q. He was moaning and groaning. You told
20 the GBI he was slumped over. Do you agree with
21 that?

22 A. He was kind of -- yeah, he was a big
23 guy. He was hunched a little bit.

24 Q. He was a big guy, but you noticed that
25 his pants were hanging off of him, they were

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1 kind of dropping off of him?

2 A. Yeah.

3 Q. Were you aware he had lost almost forty
4 pounds in the ten dates he had been -- since PTS
5 picked him up?

6 A. No, I did not.

7 Q. Did you think he was in condition to be
8 transported across the country?

9 A. Yeah.

10 MR. DALY: Object to the form.

11 BY MR. PARTIN:

12 Q. Would it surprise you if the nurses
13 that worked for ACH testified that they did not
14 medically clear him for transportation?

15 A. That's surprising.

16 Q. What did the nurse look like that you
17 overheard say he was medically cleared?

18 A. The only thing that I can remember was
19 dirty blonde hair, that's all.

20 Q. Dirty blonde hair?

21 A. Uh-huh.

22 Q. You mean highlighted?

23 A. No, like a natural dirty blonde hair,
24 like mine.

25 Q. Was she bigger than you or smaller than

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1 brought Mr. Weintraub out and you were the one
2 that asked them to re-evaluate him?

3 A. I told my officer-in-command that that
4 is what needs to happen. He's the one that told
5 them.

6 Q. He agreed with you that he needed to be
7 re-evaluated?

8 A. Uh-huh. All three of us did.

9 Q. Okay. Are you aware of any documents
10 that show that he was re-evaluated?

11 A. No.

12 Q. Are you aware of any documents that
13 show he was medically cleared?

14 A. No.

15 Q. Did anybody call -- anybody from PTS
16 call a supervisor and say we've got a situation
17 here, we've got a guy who is sweating bullets,
18 slumped over, moaning, groaning, complaining of
19 pain, but they are trying to send him on?

20 A. I can't remember.

21 Q. You are not aware of anybody doing
22 that?

23 A. No.

24 Q. Okay.

25 A. I don't know.

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1 Q. All right. So you all put him in the
2 van?

3 A. Uh-huh.

4 Q. He had to be helped into the van,
5 didn't he?

6 A. Yeah.

7 Q. He is a big dude? He was six nine,
8 wasn't he?

9 A. Well, I didn't know he was six nine.
10 At the time I just looked taller than him.

11 Q. Okay.

12 A. Yeah, he had to have some assistance.
13 We help everybody into the van. You don't want
14 them to fall.

15 Q. Didn't his pants almost fall off of him
16 when he was getting in the van?

17 A. Yeah, yeah.

18 Q. What happens next?

19 A. We shut the cage, lock it, shut the
20 back doors, and proceed on with our trip.

21 Q. Okay. How far did you go before you
22 stopped?

23 A. I'm not sure. I was only awake for
24 another twenty, thirty minutes. I assume when
25 they stopped for water or whatever, I was

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1 asleep. I was out for the entire trip other
2 than that twenty or thirty minutes after we left
3 Owensboro.

4 Q. Okay. Didn't you tell the GBI that
5 when you were back at the prison in Kentucky
6 that it was a man that you had talked to that
7 said he was okay to go?

8 A. I don't recall. I remember a woman.

9 Q. Were you aware of your conversation
10 with the GBI was recorded?

11 A. Uh-huh.

12 Q. And would you disagree with that
13 recording or transcript of the recording if it
14 says "a guy was coming in and out of the medical
15 room and I had a conversation with him"?

16 A. No.

17 Q. So why would you say it was a guy that
18 medically cleared him or was coming in and out
19 of the room to the GBI and today you said it was
20 a woman?

21 A. I remember a woman. If I said it was a
22 guy then, then that was then. That was a little
23 over two years ago. It is hard to remember that
24 stuff.

25 Q. But the statement you give to the GBI

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1 Q. Okay. Were you all playing music as
2 you are driving?

3 A. For that first twenty or thirty minutes
4 that I was awake, we were, yeah.

5 Q. Okay. But could you still hear
6 Mr. Weintraub moaning and groaning?

7 A. No. I mean, if someone were to tell us
8 that he was, I mean, that's a different story,
9 but he was in the very, very back of the van.
10 So if he didn't speak up or anything to anybody
11 else, we would have never known.

12 Q. Did you ever hear moaning again in the
13 van while you were driving?

14 A. Ug-huh. Like I said, I was asleep.

15 Q. All right. What is the next thing you
16 remember?

17 A. Arnold had came out of the jail after
18 taking the females in to use the restroom, and
19 he went back to the back of the van to take the
20 males in, and after he noticed Mr. Weintraub was
21 gone, he came and opened my door, woke me up,
22 and then he opened the door where the bed is and
23 woke Roberts up and we got out. That was the
24 next time I was coherent.

25 Q. So about what time was it when you all

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1 left the detention center in Kentucky?

2 A. I can't remember.

3 Q. If the records say it was about nine
4 forty-five p.m., would you disagree with that?

5 A. No, I wouldn't. That's pretty
6 accurate, I guess.

7 Q. And how long of a drive was it to North
8 Georgia from Kentucky?

9 A. I can't recall. Eight, nine hours.

10 Q. Okay. So is it your testimony that you
11 were asleep other than the first twenty minutes
12 for eight or nine hours?

13 A. It is.

14 Q. Okay. You were in the sleeping berth?

15 A. No. I was in the passenger seat.

16 Q. So you were sitting upright in the
17 passenger seat asleep for eight or nine hours?

18 A. Uh-huh.

19 Q. You never woke up when the truck
20 stopped for gas, never woke up when the truck
21 stopped for water, never woke up when the doors
22 were open to give the prisoners water?

23 A. No. I was knocked out.

24 Q. Okay. Did you take any sleeping
25 medication?

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1 A. Yeah. I'm not going to deny that.

2 Q. So you didn't tell him that the first
3 time?

4 A. No.

5 Q. Why did you not tell him that you were
6 mocking him when he first interviewed you about
7 what had been going on?

8 A. I mean any person can say that. That
9 just doesn't look good. I don't know. I didn't
10 want the guy to die. I mean, you don't want
11 anybody to die.

12 Q. When you say you were mocking him, what
13 do you mean by that?

14 A. Making the same kind of groan noises
15 that he was making. That's pretty much it.

16 Q. At what point in time were you doing
17 that?

18 A. It was at the jail in Owensboro. I
19 don't remember if it was blatantly right there
20 in front of him or if it was when he went back
21 to get examined again. I don't know.

22 Q. If the other witnesses testified it was
23 occurring in front of him, would you disagree
24 with that?

25 A. No, I wouldn't.

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1 Q. Okay. Why were you doing that?

2 A. I don't know. First day on the job. I
3 mean, I know that inmates all the time they ask
4 for stuff, they fake stuff just to get what they
5 want. I don't know. It was the first day on
6 the job. I guess I wanted to be cool, which is
7 not.

8 Q. You knew it was wrong, didn't you?

9 A. Oh, yes, I did, yeah.

10 Q. I know you may regret it now, but you
11 knew it was wrong at the time you did it, didn't
12 you?

13 A. Yeah.

14 Q. That's why you didn't tell the GBI
15 about it?

16 A. Yeah.

17 Q. You did it on purpose, right?

18 A. Uh-huh.

19 Q. These weren't involuntary utterances
20 you were making?

21 A. No.

22 Q. Do you think that would have made
23 Mr. Weintraub feel better?

24 A. No, not at all.

25 Q. It would probably make him feel worse,

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1 wouldn't it?

2 A. Yeah.

3 Q. You knew that when you did it?

4 A. I assume so.

5 Q. If you are lying there dying of a
6 perforated ulcer moaning and groaning and
7 sweating profusely and somebody is mocking you,
8 you knew that would make you feel worse, didn't
9 you?

10 A. Yeah, it would.

11 Q. Do you regret mocking him now?

12 A. Oh, absolutely. Who wouldn't?

13 MR. PARTIN: Let's take a short break.

14 THE VIDEOGRAPHER: Going off the
15 record. The time is 12:30.

16 (Brief recess.)

17 THE VIDEOGRAPHER: Going back on the
18 records. The time is 12:48.

19 BY MR. PARTIN:

20 Q. Mr. Davis, some of the other
21 witnesses, other prisoners in the transport van,
22 said that they told the crew that Mr. Weintraub
23 needed medical care at some point during the
24 transportation. Do you recall that?

25 A. Ug-huh.

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1 A. I think I did.

2 Q. You think I did?

3 A. Uh-huh.

4 Q. Do you think you treated Mr. Weintraub
5 fairly and humanely and with dignity?

6 A. I mean other than mocking him.

7 Q. So didn't comply with the policy when
8 you were mocking him, correct?

9 A. Right.

10 Q. Do you think you maintained constant
11 awareness of Mr. Weintraub's behavior and
12 attitude and moods?

13 A. Uh-huh.

14 Q. How did you do that when you were
15 asleep the whole time?

16 A. Well, I mean, I can do that when I'm
17 awake at Owensboro.

18 Q. How were you getting trained and
19 receiving training on this trip if you slept the
20 whole time?

21 A. What kind of training can you get when
22 you are sitting there and another person is
23 driving for eight hours?

24 Q. Well, is that PTS's policy or procedure
25 that if one person is driving, the other person

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1 5, this medical authorization for transport. Is
2 that what you were talking about?

3 A. I'm assuming. If that is -- that is
4 given at the very beginning of a transport for
5 anybody, and obviously there is no alteration on
6 that saying that he had been looked over. So
7 I'm going to say that that is probably something
8 that I was told from my officer-in-command.

9 Q. So you are not aware of any other
10 paperwork that, quote, unquote, medically
11 cleared him other than Exhibit 5?

12 A. No.

13 Q. And as we discussed earlier, Exhibit 5
14 was dated about ten days before you picked him
15 up?

16 A. Uh-huh.

17 Q. The second thing that sounded a little
18 different in your statement to the GBI was that
19 you were awake when you all stopped at the gas
20 station because you ate food, ate a hot dog, and
21 I'm pretty sure you didn't eat the hot dog while
22 you were sleeping.

23 A. Right.

24 Q. Is it correct, then, that you must have
25 been awake when you all stopped at the gas

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1 A. Uh-huh.

2 Q. So is your testimony that you gave
3 earlier, is that incorrect?

4 MR. DALY: Object to the form.

5 A. I was standing there. I still believe
6 I heard somebody say that he was released for
7 travel.

8 BY MR. PARTIN:

9 Q. Okay.

10 A. It may be that correctional officer or
11 a nurse.

12 Q. But you didn't tell the GBI that when
13 you were asked specifically what you recalled
14 about medical clearance and when you picked him
15 up?

16 A. No.

17 MR. PARTIN: Now I don't have any
18 further questions.

19 MR. DALY: Kevin?

20 EXAMINATION

21 BY MR. SPAINHOUR:

22 Q. Mr. Davis, my name is Kevin Spainhour,
23 I represent Advanced Correctional Health.

24 If I understand your testimony, you are
25 the eight that shackled Mr. Weintraub --

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1 A. Uh-huh.

2 Q. -- is that correct?

3 A. Uh-huh.

4 Q. Do you remember what Mr. Weintraub was
5 wearing when you shackled him?

6 A. Blue jeans. I don't know what kind of
7 shirt. It looked like he had a sweat shirt over
8 a T-shirt maybe. And some shoes that didn't
9 look like his size.

10 Q. Do you remember whether you ever --
11 while you were shackling Mr. Weintraub whether
12 you ever touched his skin in any way?

13 A. No. I can't recall if he had any socks
14 on or not. Generally I don't put the shackles
15 on on their bare-skin ankles. I don't want to
16 rub them raw. I wouldn't for myself. So I
17 believe it was he wore jeans.

18 Q. What about the cuffs, how would you
19 have cuffed Mr. Weintraub?

20 A. I mean they have their hands like this
21 before us. (Indicating.) I would assume I would
22 have touched his hand, but I don't remember what
23 he would have felt like.

24 Q. You don't remember him being cold and
25 clammy when you touched his hands to put the

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1 Q. Now, as part of your duties with PTS
2 transporting inmates you do transport inmates
3 with medical conditions, correct?

4 A. Correct.

5 Q. Okay. If you have an inmate that has a
6 medical condition that you are concerned about,
7 one of the things that the PTS policies require
8 you to do is to advise dispatch. Is that fair?

9 A. Yeah.

10 Q. Did you or your officer-in-charge or
11 Mr. Roberts notify dispatch that you had an
12 inmate with a medical condition?

13 A. I don't remember.

14 Q. If you or your officer-in-charge or
15 Mr. Roberts did notify dispatch that you had an
16 inmate with a medical condition, would that be
17 recorded somewhere?

18 A. I'm not sure.

19 Q. You don't know what happens with that
20 information when you do give it to dispatch?

21 A. I don't know if it is audio-recorded or
22 not. I don't know if there is anything like
23 that.

24 Q. Do you know how you go about notifying
25 dispatch that you have an inmate with a medical